

Executive Summary – Enforcement Matter – Case No. 42392

City of Brazoria

RN101613552

Docket No. 2011-1529-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Brazoria WWTP, approximately 2.25 miles southwest of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797, Brazoria County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 3, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$14,920

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$14,920

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 42392

City of Brazoria

RN101613552

Docket No. 2011-1529-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: June 9, 2011

Date(s) of NOE(s): August 5 and September 21, 2011

Violation Information

1. Failed to prevent the discharge of wastewater related debris to the receiving stream [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014581001 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d., and TEX. WATER CODE § 26.121(a)(1)].
2. Failed to properly operate and maintain the sludge drying beds and to properly dispose of wastewater screenings [TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(5)].
3. Failed to properly operate and maintain the clarifiers [TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(5)].
4. Failed to comply with permitted effluent limits for flow [TPDES Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Remove and properly dispose of debris from the receiving stream, the wastewater screenings from the ground and drying beds, and the solids and vegetation from the clarifier weirs and the drying beds; and
- ii. Develop and implement procedures to ensure the clarifier and drying beds are properly maintained and operated.

b. Within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014581001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most

Executive Summary – Enforcement Matter – Case No. 42392
City of Brazoria
RN101613552
Docket No. 2011-1529-MWD-E

current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.

c. Within 105 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 925-9336; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Teresa Borders, City Manager, City of Brazoria, 201 South Main Street, Brazoria, Texas 77422

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

| | | | | | | |
|--------------|-----------------|------------|------------------|-------------|----------------|--|
| DATES | Assigned | 5-Aug-2011 | Screening | 10-Aug-2011 | EPA Due | |
| | PCW | 1-Sep-2011 | | | | |

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|------------------|---------------------------|-------|
| Respondent | City of Brazoria | | |
| Reg. Ent. Ref. No. | RN101613552 | | |
| Facility/Site Region | 12-Houston | Major/Minor Source | Minor |

CASE INFORMATION

| | | | |
|----------------------------------------|-----------------|------------------------------|--------------------|
| Enf./Case ID No. | 42392 | No. of Violations | 4 |
| Docket No. | 2011-1529-MWD-E | Order Type | Findings |
| Media Program(s) | Water Quality | Government/Non-Profit | Yes |
| Multi-Media | | Enf. Coordinator | Cheryl Thompson |
| | | EC's Team | Enforcement Team 3 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$4,000**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 273.0% Enhancement **Subtotals 2, 3, & 7** \$10,920

Notes: Enhancement for 39 self-reported violations, five NOV's for same/similar violations, four NOV's for dissimilar violations, one order with denial of liability and one order without denial of liability.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0**Economic Benefit** 0.0% Enhancement* **Subtotal 6** \$0

Total EB Amounts \$1,121
Approx. Cost of Compliance \$14,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$14,920**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$14,920**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty** \$14,920**DEFERRAL** 0.0% Reduction **Adjustment** \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY \$14,920

Screening Date 10-Aug-2011

Docket No. 2011-1529-MWD-E

PCW

Respondent City of Brazoria

Policy Revision 2 (September 2002)

Case ID No. 42392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613552

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|---------|
| NOVs | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>) | 44 | 220% |
| | Other written NOVs | 4 | 8% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 1 | 20% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 1 | 25% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 273%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 39 self-reported violations, five NOVS for same/similar violations, four NOVs for dissimilar violations, one order with denial of liability and one order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 273%

Screening Date 10-Aug-2011

Docket No. 2011-1529-MWD-E

PCW

Respondent City of Brazoria

Policy Revision 2 (September 2002)

Case ID No. 42392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613552

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s)

Texas Pollutant Discharge Elimination System ("TPDES") Permit No.
WQ0014581001 Interim Effluent Limitations and Monitoring Requirements No. 4,
Permit Conditions 2.d. and Tex. Water Code § 26.121(a)(1)

Violation Description

Failed to prevent the discharge of wastewater-related debris to the receiving stream. Specifically, wastewater-related debris was noted in the receiving ditch for a distance of approximately five hundred feet downstream of the outfall point.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

62

Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of June 9, 2011 (investigation date) to August 10, 2011 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

Extraordinary

Before NOV NOV to EDPRP/Settlement Offer

Ordinary

N/A

X

(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent City of Brazoria
Case ID No. 42392
Reg. Ent. Reference No. RN101613552
Media Water Quality
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 9-Jun-2011 | 31-Mar-2012 | 0.81 | \$41 | n/a | \$41 |

Notes for DELAYED costs

Estimated cost to clean debris from the receiving stream and to take steps to prevent discharge of wastewater related debris. Date required is the investigation date. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$41

Screening Date 10-Aug-2011

Docket No. 2011-1529-MWD-E

PCW

Respondent City of Brazoria

Policy Revision 2 (September 2002)

Case ID No. 42392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613552

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(5)

Violation Description

Failed to properly operate and maintain the sludge drying beds and to properly dispose of wastewater screenings. Specifically, the drying beds were overgrown with tomato plants and other vegetation and the wastewater screenings were littered all over the ground and the drying beds.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | x | |

Percent 10%

>> Programmatic Matrix

| Falsification | Harm | | |
|---------------|-------|----------|-------|
| | Major | Moderate | Minor |
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

62 Number of violation days

| | | |
|-------------------------|--------------|---|
| mark only one with an x | daily | |
| | weekly | |
| | monthly | |
| | quarterly | x |
| | semiannual | |
| | annual | |
| | single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of June 9, 2011 (investigation date) to August 10, 2011 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Reduction | |
|---------------|------------|-------------------------------|
| | Before NOV | NOV to EDPRP/Settlement Offer |
| Extraordinary | | |
| Ordinary | | |
| N/A | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$81

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent City of Brazoria
Case ID No. 42392
Reg. Ent. Reference No. RN101613552
Media Water Quality
Violation No. 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$2,000 | 9-Jun-2011 | 31-Mar-2012 | 0.81 | \$81 | n/a | \$81 |

Notes for DELAYED costs

Estimated cost to properly maintain the sludge drying beds and to clean wastewater screenings from the ground and drying beds, to implement procedures to prevent the growth of vegetation in the drying beds and to properly dispose of screenings. Date required is the investigation date and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$81

Screening Date 10-Aug-2011

Docket No. 2011-1529-MWD-E

PCW

Respondent City of Brazoria

Policy Revision 2 (September 2002)

Case ID No. 42392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613552

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s)

TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 Tex. Admin. Code § 305.125(5)

Violation Description

Failed to properly operate and maintain the clarifiers. Specifically, the clarifier weirs were covered with rising solids and vegetation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | |
| Potential | | X | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

62 Number of violation days

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended from the period of June 9, 2011 (investigation date) to August 10, 2011 (screening date).

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent City of Brazoria
Case ID No. 42392
Reg. Ent. Reference No. RN101613552
Media Water Quality
Violation No. 3

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

No commas or \$

Delayed Costs

| | | | | | | | |
|--------------------------|---------|------------|-------------|------|------|-----|------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$1,000 | 9-Jun-2011 | 31-Mar-2012 | 0.81 | \$41 | n/a | \$41 |

Notes for DELAYED costs

Estimated cost to remove and properly dispose of solids and vegetation from the clarifier weirs and to implement procedures to prevent solids build-up and the growth of vegetation. Date required is the investigation date and the final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$41

Screening Date 10-Aug-2011

Docket No. 2011-1529-MWD-E

PCW

Respondent City of Brazoria

Policy Revision 2 (September 2002)

Case ID No. 42392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613552

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 4

Rule Cite(s)

TPDES Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limits, as documented during a record review conducted on September 21, 2011. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

| Release | Harm | | |
|-----------|-------|----------|-------|
| | Major | Moderate | Minor |
| Actual | | | X |
| Potential | | | |

Percent 10%

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
| | | | |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or the environment as a result of this violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

61 Number of violation days

1

mark only one
with an x

| | |
|--------------|---|
| daily | |
| weekly | |
| monthly | |
| quarterly | X |
| semiannual | |
| annual | |
| single event | |

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

| | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary | | |
| Ordinary | | |
| N/A | X | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$959

Violation Final Penalty Total \$3,730

This violation Final Assessed Penalty (adjusted for limits) \$3,730

Economic Benefit Worksheet

Respondent City of Brazoria
 Case ID No. 42392
 Reg. Ent. Reference No. RN101613552
 Media Water Quality
 Violation No. 4

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|----------|-------------|-------------|------|-------|-----|-------|
| Equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.00 | \$0 | \$0 | \$0 |
| Land | | | | 0.00 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.00 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.00 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.00 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.00 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 31-Jul-2010 | 30-Jun-2012 | 1.92 | \$959 | n/a | \$959 |

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the month the first non-compliant excursion was documented. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal | | | | 0.00 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$959

Effluent Limit Violation Table

| | |
|-------------------------|-------------------------------|
| Respondent | City of Brazoria |
| ID Number(s) | TPDES Permit No. WQ0014581001 |
| Docket Number | 2011-1529-MWD-E; Case 42392 |
| Enf. Coordinator | Cheryl Thompson |

Corresponds to Violation Number: 4

| EFFLUENT PARAMETER | | Permit Limits |
|--------------------|--|---------------|
|--------------------|--|---------------|

[illegible]

Compliance History

| | | | | |
|-------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|-------------------------|--------------------|
| Customer/Respondent/Owner-Operator: | CN600573414 | City of Brazoria | Classification: AVERAGE | Rating: 7.34 |
| Regulated Entity: | RN101613552 | CITY OF BRAZORIA WWTP | Classification: AVERAGE | Site Rating: 11.68 |
| ID Number(s): | WASTEWATER | EPA ID | TX0025615 | |
| | WASTEWATER | PERMIT | WQ0014581001 | |
| | WASTEWATER | EPA ID | TX0025615 | |
| | WASTEWATER LICENSING | LICENSE | WQ0010133001 | |
| Location: | Approx. 2.25 mile southwest of the City of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797 in Brazoria County Texas | | | |
| TCEQ Region: | REGION 12 - HOUSTON | | | |
| Date Compliance History Prepared: | August 26, 2011 | | | |
| Agency Decision Requiring Compliance History: | Enforcement | | | |
| Compliance Period: | August 26, 2006 to August 26, 2011 | | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | | |
| Name: | Cheryl Thompson | Phone: | (817) 588-5886 | |

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2010 Repeat Violator: YES

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 09/21/2006 ADMINORDER 2006-0502-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Effective Date: 02/22/2010

ADMINORDER 2009-1132-MWD-E

Classification: Major

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations and Monitoring Requ PERMIT
OP 2 ORDER

Description: Failure to comply with the permitted effluent limits.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 08/29/2006 | |
| 2 | 09/14/2006 | (521825) |
| 3 | 12/22/2006 | (553688) |
| 4 | 08/17/2007 | (570663) |
| 5 | 11/01/2007 | (597718) |
| 6 | 03/12/2007 | (620716) |
| 7 | 03/29/2007 | (620717) |
| 8 | 04/18/2007 | (620718) |
| 9 | 05/18/2007 | (620719) |
| 10 | 09/25/2007 | (620720) |
| 11 | 07/23/2007 | (620721) |
| 12 | 09/19/2007 | (620722) |
| 13 | 09/19/2007 | (620723) |

| | | |
|----|------------|----------|
| 14 | 08/31/2006 | (620724) |
| 15 | 09/28/2007 | (620725) |
| 16 | 11/03/2006 | (620726) |
| 17 | 11/12/2007 | (620727) |
| 18 | 12/08/2006 | (620728) |
| 19 | 12/17/2007 | (620729) |
| 20 | 12/18/2006 | (620730) |
| 21 | 12/20/2007 | (620731) |
| 22 | 02/13/2007 | (620732) |
| 23 | 02/26/2008 | (672964) |
| 24 | 03/20/2008 | (672965) |
| 25 | 01/30/2008 | (672966) |
| 26 | 07/22/2008 | (686802) |
| 27 | 04/22/2008 | (691024) |
| 28 | 05/15/2008 | (691025) |
| 29 | 06/24/2008 | (691026) |
| 30 | 07/22/2008 | (711908) |
| 31 | 10/24/2008 | (711909) |
| 32 | 10/02/2008 | (728323) |
| 33 | 11/25/2008 | (728324) |
| 34 | 05/11/2009 | (742243) |
| 35 | 07/02/2009 | (749183) |
| 36 | 03/03/2009 | (751367) |
| 37 | 03/18/2009 | (751368) |
| 38 | 12/22/2008 | (751369) |
| 39 | 01/30/2009 | (751370) |
| 40 | 08/04/2010 | (761141) |
| 41 | 04/23/2009 | (769158) |
| 42 | 05/21/2009 | (769159) |
| 43 | 01/07/2010 | (782725) |
| 44 | 05/26/2010 | (802527) |
| 45 | 06/12/2009 | (807288) |
| 46 | 07/24/2009 | (807289) |
| 47 | 08/27/2009 | (807290) |
| 48 | 09/17/2009 | (807291) |
| 49 | 10/22/2009 | (807292) |
| 50 | 11/18/2009 | (807293) |
| 51 | 12/16/2009 | (807294) |
| 52 | 12/11/2009 | (827821) |
| 53 | 06/16/2010 | (831814) |
| 54 | 06/16/2010 | (831815) |
| 55 | 06/16/2010 | (831816) |
| 56 | 06/16/2010 | (831817) |
| 57 | 06/16/2010 | (831818) |
| 58 | 09/24/2010 | (848867) |
| 59 | 08/23/2010 | (867184) |
| 60 | 11/08/2010 | (871976) |
| 61 | 09/16/2010 | (874239) |
| 62 | 12/08/2010 | (888322) |
| 63 | 01/24/2011 | (896604) |
| 64 | 12/06/2010 | (896605) |
| 65 | 01/14/2011 | (902614) |
| 66 | 01/12/2011 | (905008) |
| 67 | 02/11/2011 | (909401) |
| 68 | 03/10/2011 | (916660) |
| 69 | 04/11/2011 | (925836) |
| 70 | 06/16/2010 | (925837) |
| 71 | 09/03/2010 | (925838) |
| 72 | 08/05/2011 | (932681) |

73 05/09/2011 (938357)

74 06/17/2011 (945724)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/28/2006 (488138) CN600573414
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to operate and maintain the chlorine contact chamber to prevent the accumulation of sludge. There was one foot of sludge in an eight foot water depth in the chlorine contact chamber. In addition, the circular clarifiers had a sludge blanket depth greater than 25% of the water depth.

Date: 10/31/2006 (620728) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/22/2006 (553688) CN600573414
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2006 (620732) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007 (620716) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (620718) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (620719) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (620720) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2007 (620721) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2007 (620722) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/16/2007 (570663) CN600573414
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
EL&MR, pg. 2, no. 2 & 6 PERMIT
Description: Failure to maintain compliance with effluent limits. The dissolved oxygen (D.O.) concentration in the effluent was 3.15 mg/L and the total chlorine residual was 0.3 mg/L, at the time of the inspection. The permit limit for D.O. is 4.0 mg/L and the permit limit for total chlorine residual is at least 1.0 mg/L.

Date: 08/31/2007 (620725) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2007 (620727) CN600573414
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 10/31/2007 (620729) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 11/30/2007 (620731) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 01/31/2008 (672964) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 02/29/2008 (672965) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 03/31/2008 (691024) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 04/30/2008 (691025) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 05/31/2008 (691026) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 06/30/2008 (711908) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 07/18/2008 (686802) CN600573414
 Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limits PERMIT
 Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.
 Self Report? NO Classification: Major

Citation: 2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B)
 Ordering Provision No. 2 ORDER
 Description: Failure to comply with Agreed Commission Order Docket No. 2006-0502-MWD-E.
 Date 07/31/2008 (620723) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 08/31/2008 (728323) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 09/30/2008 (711909) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 10/31/2008 (728324) CN600573414
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date 11/30/2008 (751369) CN600573414
 Self Report? YES Classification: Moderate

| | | |
|--------------|----------------------------------------------------------------------------------------------------|--------------------------|
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 12/31/2008 (751370) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 01/31/2009 (751367) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 02/28/2009 (751368) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 03/31/2009 (769158) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 04/30/2009 (769159) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 05/11/2009 (742243) | CN600573414 |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) | |
| Description: | Failure to submit the 2008 Annual Sludge. | |
| Date | 06/30/2009 (807289) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 08/31/2009 (807291) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 12/11/2009 (827821) | CN600573414 |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17) | |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17) | |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE | |
| Date | 12/31/2009 (831818) | CN600573414 |
| Self Report? | YES | Classification: Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| Description: | Failure to meet the limit for one or more permit parameter | |
| Date | 01/07/2010 (782725) | CN600573414 |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) | |
| Description: | Failure to submit the annual sludge report for the period August 1, 2008 to July 31, 2009. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(b)(4) | |
| Description: | Failure to properly dispose of wastewater screenings. | |
| Self Report? | NO | Classification: Minor |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(d) | |
| Description: | Failure to properly operate and maintain the clarifier. | |
| Self Report? | NO | Classification: Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.5(e)(1) | |
| Description: | Failure to properly operate and maintain the sludge drying beds. | |
| Self Report? | NO | Classification: Major |

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
TWC Chapter 26 26.121
Description: Failure to prevent the discharge of sanitary related solids into the receiving stream.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.7(e)
Description: Failure to properly secure the plant site.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to ensure that the colorimeter for chlorine analyses was working properly.

Date 01/31/2010 (831814) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 02/28/2010 (831815) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2010 (831816) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2010 (925837) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2010 (867184) CN600573414
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter
Date 09/24/2010 (848867) CN600573414
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(b)(4)
Description: Failure to properly dispose of wastewater screenings.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)
Description: Failure to properly operate and maintain the clarifier.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.5(e)(1)
Description: Failure to properly operate and maintain the sludge drying beds.
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
TWC Chapter 26 26.121
Description: Failure to prevent the discharge of sanitary related solids into the receiving stream.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.7(e)
Description: Failure to properly secure the plant site.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to ensure that the colorimeter for chlorine analyses was working properly.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(b)(3)
Description: Failure to properly operate and maintain the chlorine contact basin.
Self Report? NO Classification: Major
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
TWC Chapter 26 26.121
Description: Failed to prevent the unauthorized discharge of wastewater from the collection system.

Date 09/30/2010 (896604) CN600573414

| | | | |
|--------------|---------------------------------------------------------------------------------------------|-----------------|----------|
| Self Report? | YES | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 01/12/2011 (905008) | CN600573414 | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17) | | |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE | | |
| Self Report? | NO | Classification: | Moderate |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17) | | |
| Description: | NON-RPT VIOS FOR MONIT PER OR PIPE | | |
| Date | 02/28/2011 (916660) | CN600573414 | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |
| Date | 05/31/2011 (945724) | CN600573414 | |
| Self Report? | YES | Classification: | Moderate |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) | | |
| Description: | Failure to meet the limit for one or more permit parameter | | |

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BRAZORIA
RN101613552**

§ **BEFORE THE**
§
§ **TEXAS COMMISSION ON**
§
§ **ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1529-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Brazoria ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that they have certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located at approximately 2.25 miles southwest of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797 in Brazoria County, Texas (the "Facility").

2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During an investigation on June 9, 2011, TCEQ staff documented wastewater-related debris in the receiving stream. Specifically, wastewater-related debris was noted in the receiving ditch for a distance of approximately five hundred feet downstream of the outfall point.
4. During an investigation on June 9, 2011, TCEQ staff documented that the drying beds were overgrown with tomato plants and other vegetation and the wastewater screenings were littered all over the ground and the drying beds.
5. During an investigation on June 9, 2011, TCEQ staff documented that the clarifier weirs were covered with rising solids and vegetation.
6. During a record review on September 21, 2011, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

| | Flow Daily Avg. |
|-------------------|----------------------|
| <i>Month/Year</i> | Limit = 0.75 mg/L |
| July 2010 | 0.966 |
| September 2010 | 0.976 |

avg. =average; mg/L=milligrams per liter

7. The Respondent received notice of the violations on August 10, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the discharge of wastewater related debris to the receiving stream, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014581001 Interim Effluent Limitations and Monitoring Requirements No. 4, Permit Conditions No. 2.d., and TEX. WATER CODE § 26.121(a)(1).
3. As evidenced by Findings of Fact No. 4, the Respondent failed to properly operate and maintain the sludge drying beds and to properly dispose of wastewater screenings, in

violation of TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(5).

4. As evidenced by Findings of Fact No. 5, the Respondent failed to properly operate and maintain the clarifiers, in violation of TPDES Permit No. WQ0014581001 Operational Requirements No. 1 and 30 TEX. ADMIN. CODE § 305.125(5).
5. As evidenced by Findings of Fact No. 6, the Respondent failed to comply with permitted effluent limits, in violation of TPDES Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a).
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Fourteen Thousand Nine Hundred Twenty Dollars (\$14,920) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Fourteen Thousand Nine Hundred Twenty Dollar (\$14,920) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount Fourteen Thousand Nine Hundred Twenty Dollars (\$14,920) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Brazoria, Docket No. 2011-1529-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:

- i. Remove and properly dispose of debris from the receiving stream, the wastewater screenings from the ground and drying beds, and the solids and vegetation from the clarifier weirs and the drying beds; and
 - ii. Develop and implement procedures to ensure the clarifier and drying beds are properly maintained and operated.
- b. Within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014581001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted limitations.
- c. Within 105 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i through 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this

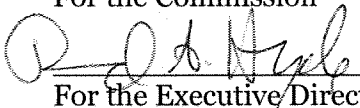
paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/2/12
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Brazoria. I am authorized to agree to the attached Agreed Order on behalf of the City of Brazoria, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Brazoria waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12-6-11
Date

Teresa Borders
Name (Printed or typed)
Authorized Representative of
City of Brazoria

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.